

REMARKS

This is a preliminary amendment filed in connection with a contemporaneously filed division of parent application S.N. 09/727,207 filed November 30, 200. As filed the divisional contains all claims 1-27.

By this preliminary amendment claims 14, 15, 17-27 are cancelled, leaving claims 1-13, 16 for prosecution.

The substance of this paper was submitted in Response to a Notice of Non-Compliant Amendment dated filed June 24, 2003. That Response included changes rectifying various omissions and corrections identified in the Notice as well as arguments distinguishing the claims over references cited during earlier prosecution of the parent. Those portions of the Response are repeated later herein and are to be considered as part of this paper.

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The Examiner refused entry of the Response on the ground that the amendments were directed to a non-elected invention. The position of the Examiner in refusing entry of the earlier Response is believed erroneous and a Reply to that effect has been filed in the parent application.

However, in the interest of protecting the rights of the assignee this divisional is being filed.

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For the record, the basis for the conclusion that the Examiner's refusal to enter the Response is erroneous is repeated here.

Examiner views original claim 1 as containing a time element requiring the actual physical presence of "loops" before the binder material is applied to the backing. Since the amended claim 1 recites that the binder is to be applied prior to the formation of the loops, the Examiner perceives the amended claim to be drawn to a non-elected invention.

The basis for the Examiner's erroneous conclusion is the recitation in original claim 1 that the binder is to be applied "in the vicinity" of the roots. According to the Examiner, one cannot know the vicinity of the loops until the loops are present.

This construction of the claims to include a time element runs counter to the English language, to common sense, and to the clear teachings of the specification.

One can know the "vicinity" of a member without the member being present. All that is required is knowledge regarding the member's eventual location. This knowledge is sufficient to specify the locality in which an additional feature is to be provided.

For example, in new housing subdivision under construction, a contractor can locate a mailbox "in the vicinity" of a new dwelling before construction of the dwelling is physically begun. As long as the footprint of the dwelling on the lot is known, a location for the mailbox "in the vicinity" of the dwelling is ascertainable.

The recitation of original claim 1 is directly analogous. The original claim required that the binder be placed "in the vicinity of the root portions of the loops". This language comprehends placing the binder both before or after the root is actually present. At least Figures 2A through 2C the step of binder

application (reference character 26) occurs before the stitching step (reference character 32) is performed. Figure 2E illustrates the opposite situation.

Thus, when original claim 1 is amended to specify that the binder is placed "prior to" root formation, the amendment properly limits original claim 1.

The amendment in the Response in the parent should have been entered.

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Turning to the merits, several of the amendments to the specification are submitted to obviate the requirement for amended drawings.

Others of the submitted amendments to the specification overcome the informalities noted by the Examiner in the parent application.

The claims have been amended to overcome the rejection based upon 35 U.S.C. 112, Second Paragraph, by the deletion of the term "vicinity" in claim 1 and the term "about" in claim 13.

In response to the rejections on art, Claim 1 has been amended to more particularly point out and more distinctly claim the subject matter of the present invention. Antecedent basis for the amendments to claim 1 is derived from at least page 5, line 37 through page 6, line 11 as well as page 8, lines 19 to 24.

These amendments make explicit that in accordance with the present invention the binder material is applied to the surface of the backing prior to the formation of the pile loops. Thus, the binder is able to concentrate in the region of the root portion of the

pile to hold the pile to the backing. At the same time the upper portions of the pile elements remain substantially free of binder material (see, page 6, lines 15 to 20).

None of the references relied upon by the examiner anticipate or render obvious the invention recited in the amended claims.

The two primary references, U.S. Patent 4,871,604 (Hackler) and U.S. Patent 2,261,096 (Reinhardt), both relate to methods in which a binder material is applied after the formation of the nap or pile. Moreover, the binder material is disposed over the entire pile structure.

Reinhardt relates to the formation of a needled felt product. After a layer of fiber is needled-punched into a base fabric the entire structure is immersed to a tank of dilute adhesive. The entire product is covered with the adhesive material for the purpose of improving the durability of the product.

Hackler also discloses a method in which a binder, albeit in powder form, is dispensed over the entire tufted pile surface. The purpose of the binder is to insure adhesion among the filaments along the entire length of the pile tufts.

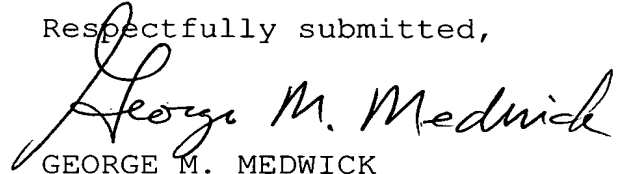
Neither of these references anticipates nor renders obvious the claimed invention. In accordance with the present invention binder material is applied prior to the formation of the pile, and in a manner that insures that the binder is concentrated near the roots of the pile. The binder serves to bond the pile to the backing and to the stitching yarns without disposing binder along the length of the pile tufts.

The major portion of the length of each tuft is thus not stiffened by the presence of binder material.

U.S. Patent 4,619,853 (Blyth et al.) appears to disclose a standard pile formation process, and is not seen to impact adversely the patentability of the present invention.

In view of the foregoing it is submitted that the claims of this application define patentably over the references cited by the examiner, and that this application stands in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



GEORGE M. MEDWICK
REGISTRATION NO. 27,456
TELEPHONE: 302-892-7915
FACSIMILE: 302-992-2533

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